

## REMARKS

By this amendment: claims 2, 9- 11, 13 and 14 are amended to better define the invention;

This application now includes claims 1-16. In view of the above amendments and the remarks hereinafter, it is respectfully requested that this application be reconsidered.

The rejection of claims 15 and 16 under 35 U.S.C. 112, second paragraph, as being indefinite is respectfully traversed. Both claims 15 and 16 include the proper antecedent language based on the claims from which they depend. Firstly, claim 15 which recites the language “said arm” within it in two locations indirectly depends from claim 2 which recites: “connecting ..... to an arm” within it. Consequently, it is proper to use “said arm” at both locations in claim 15 since “an arm” is previously recited in claim 2 from which claim 15 indirectly depends. As to claim 16, it properly recites “an arm” since claim 16 depends from independent claim 5 which does not recite “an arm”. Therefore, “an arm” is recited as a limitation in claim 16 without any mention earlier, which is not indefinite. Claims 15 and 16 do not depend from either claims 11 nor 12 wherein “arm” was amended to “movable connecting member”. Thus, the language of claims 11 and 12 have no bearing on the language of claims 15 and 16.

The rejection of claims 11 and 12 under 35 U.S.C. 102(b) as being anticipated by Crookham is respectfully traversed. The issues are; (1) whether the recitations in claim 11 and 12 in the preamble of claim 11 of , “pulling two of at least partly tubular sections of a utility pole together prior to erecting the utility pole” can be ignored or considered to be identical to lifting a tubular section up and dropping it on the base of a utility pole in a rejection under 35 USC 102; (2) whether the collar 48 disclosed in Crookham is a bracket; (3) whether the collar 36 mounted to one end of the piston rod 40 is the same as “said at least one movable connecting member being connected at

one location on the one movable connecting member to the piston rod of said at least one hydraulic cylinder and at any of a plurality of other locations on the movable connecting member to said at least one bracket whereby the tubular sections of a utility pole may be pulled together;" recited in claim 11; and (4) whether the cross brace 34 in Crookham is "a plurality of cam surfaces adapted to move the at least one movable connecting member to a height where it can clear the bracket;" as recited in claim 12 . It is applicant's position that the case law does not permit the manipulation of either the claim language or the disclosure of a reference to reach such a result.

The rejection of claims 1-8 and 14-16 under 35 U.S.C. 103(a) as being unpatentable over Crookham in view of McMullin, Thiermann and further in view of Marostica and Gordin is respectfully traversed. None of these patents pull the sections of a pole together prior to erecting the pole. Each of them is only directed to erecting a pole. The Examiner appears to be arguing that it would be obvious to pull the sections together with an apparatus using short repeated strokes because references which do not pull the sections together have all of the parts needed to construct the apparatus to pull them together using the technique and apparatus disclosed and claimed in this application. However, to establish a *prima facie* case of obviousness under 35 U.S.C. 103(a), the Examiner must show a suggestion in the references that the parts and steps compiled from the five cited references be assembled into the claimed invention. The Examiner only states that it would be obvious. That is not a *prima facie* case of obviousness. Why would it have been obvious from the references that do not even teach the need for, the problem of accomplishing nor any solution of the problem of accomplishing transporting and assembling of particularly tall utility poles. The references all start with a pole of the desired length and describe different ways of erecting it. Accordingly, the Examiner has not established a *prima facie* case of obviousness under 35 U.S.C.

103(a). Unless the Examiner can provide a *prima facie* case, the applicant need do nothing further to establish patentability of these claims.

The rejection of claims 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over McMullin in view of Marostica is respectfully traversed. It would be unobvious to a person of ordinary skill in the art to consider the telescoping tool described in McMullin as a utility pole, the plug 24 as a flexible member, the shank 25 as a tug bracket, or the pin 31 as a pull arm. Moreover, there is no suggestion in either reference that would make it obvious to combine teachings from the disclosure of the simple hand tool described in McMullin with teachings from the construction equipment of Marostica et al which is a backhoe with a boom. Neither of these references suggested the problem solved by the claimed invention nor any solution to that problem.

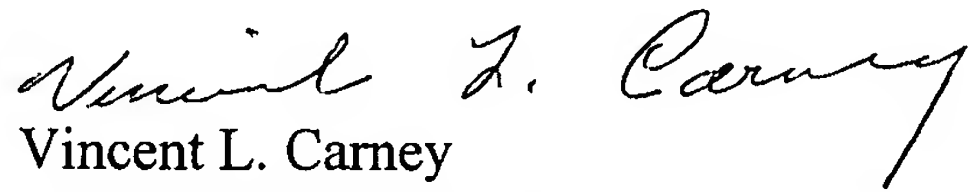
The rejection of claim 13 under 35 U.S.C. 103(a) as unpatentable over Crookham is respectfully traversed. Crookham does not disclose pulling tubular sections together before erecting them as described above. The means for fastening 66 and 67 connect the two parts of the collar not a tug bracket and piston. The inner sleeve 76 is not a tug bracket but only part of the collar and the lip 80 is not a flexible member that can be adjusted. There is no suggestion in Crookham of pulling the two sections of a utility pole together at all and the lip and sleeve do not perform an analogous function. Without this suggestion, it would not have been obvious for a person of ordinary skill in the art to reconstruct the collar of Crookham and utilize it for pulling the two sections together covered by claim 13.

Crookham only describes an apparatus to perform the function of erecting a pole. Why would a person of ordinary skill in the art change it so that it performs some different function not suggested anywhere in the reference? Incidentally, the Examiner is incorrect in stating that the

applicant has not described a function for adjusting the length of the pulling member. The length of the pulling member enables the piston by repeating the same short steps to pull the two sections of the pole together. Obviously, after the two sections have been pulled one short increment, unless that connecting member is changed in length, it will not pull it the second length with the second reciprocation of the piston. This entire function is clearly described in the specification.

Since the claims in this application are proper under 35 U.S.C. 112 and patentable under U.S.C. 102(b) and 103(a), it is respectfully requested that they be passed to issue.

Respectfully submitted,



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--Our Ref: 902-1-1-1